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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JAMES MARCUS KELLEY,

Defendant.

Case No. 2:23-mj-00892-DJA

**ORDER TO CONTINUE THE
PRELIMINARY HEARING
(Second Request)**

IT IS HEREBY STIPULATED AND AGREED, by and between JASON M. FRIERSON, United States Attorney, and ALLISON REESE, Assistant United States Attorney, counsel for the United States of America, and JOY CHEN, Assistant Federal Public Defender, counsel for Defendant JAMES MARCUS KELLEY, that the preliminary hearing in the above-captioned matter, currently scheduled for January 8, 2024, at 4:00 p.m., be vacated and continued for thirty (30) days, to a date and time to be set by this Honorable Court.

This stipulation is entered into for the following reasons:

1. The Government needs additional time to produce relevant discovery to Defense Counsel.

2. Defense Counsel needs additional time to review the discovery, conduct additional investigation, and confer with the Defendant about how he would like to proceed.

3. If this matter is not resolved pre-indictment, government counsel needs additional time to bring this matter before the grand jury for indictment.

4. Defendant JAMES MARCUS KELLEY is not in custody and does not object to the continuance.

5. The parties agree to the continuance.

6. Additionally, denial of this request for continuance could result in a miscarriage of justice.

7. The additional time requested herein is not sought for purposes of delay, but to allow for a potential pre-indictment resolution of the case.

8. The additional time requested by this stipulation, is allowed, with the defendant's consent under the Federal Rules of Procedure 5.1(d).

9. This is the second request for a continuation of the preliminary hearing.

DATED: December 15, 2023

Respectfully submitted,

JASON M. FRIERSON
United States Attorney

/s/ Allison Reese

ALLISON REESE
Assistant United States Attorney

/s/ Joy Chen

JOY CHEN, AFPD
Counsel for Defendant JAMES MARCUS
KELLEY

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,

Case No. 2:23-mj-00892-DJA

4 Plaintiff,

ORDER

5 vs.

6 JAMES MARCUS KELLEY,

7 Defendant.

8 **ORDER**

9 Based on the pending Stipulation of counsel, and good cause appearing therefore, the
10 Court finds that:

11 1. The Government needs additional time to produce relevant discovery to Defense
12 Counsel.

13 2. Defense Counsel needs additional time to review the discovery, conduct additional
14 investigation, and confer with the Defendant about how he would like to proceed.

15 3. If this matter is not resolved pre-indictment, government counsel needs additional
16 time to bring this matter before the grand jury for indictment.

17 4. Defendant JAMES MARCUS KELLEY is not in custody and does not object to
18 the continuance.

19 5. The parties agree to the continuance.

20 6. Additionally, denial of this request for continuance could result in a miscarriage
21 of justice.

22 7. The additional time requested herein is not sought for purposes of delay, but to
23 allow for a potential pre-indictment resolution of the case.

8. The additional time requested by this stipulation, is allowed, with the defendant's consent under the Federal Rules of Procedure 5.1(d).

9. This is the second request for a continuation of the preliminary hearing.

For all of the above-stated reasons, the ends of justice would best be served by a continuance of the preliminary hearing date.

CONCLUSIONS OF LAW

The ends of justice served by granting said continuance outweigh the best interest of the public and the defendant, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein to potentially resolve the case prior to indictment, and further would deny the parties sufficient time and the opportunity within which to be able to effectively and thoroughly prepare for the preliminary hearing, taking into account the exercise of due diligence.

The continuance sought herein is allowed, with the defendant's consent, pursuant to Federal Rules of Procedure 5.1(d).

ORDER

IT IS THEREFORE ORDERED that the preliminary hearing currently scheduled for January 8, 2024, at the hour of 4:00 p.m., be vacated and continued to February 12, 2024, at 4:00 p.m., Courtroom 3A.

DATED this 20th day of December, 2023.



THE HONORABLE DANIEL J. ALBREGTS
UNITED STATES MAGISTRATE JUDGE